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25 UNITED STATES DISTRICT COURT
26 FOR THE NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO, et
al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

**PLAINTIFFS' URGENT REQUEST FOR
STATUS CONFERENCE RE: NON-
COMPLIANCE WITH PRELIMINARY
INJUNCTION ORDER**

INTRODUCTION

Plaintiffs request a status conference to address urgent issues regarding at least two federal agencies' apparent noncompliance with this Court's preliminary injunction. Plaintiffs attempted to resolve these issues informally with Defendants, but the disputes remain unresolved. Plaintiffs therefore request a status conference to discuss these issues and determine the manner the Court would like the parties to proceed with respect to these disputes.

The compliance issues concern actions by Federal Agency Defendants implementing reorganization plans pursuant to the Executive Order at issue in this case, through actions that post-date this Court's temporary restraining order ("TRO") and preliminary injunction rulings. The barebones "compliance" Declaration submitted by Defendants on May 30, 2025 did not reveal any details pertaining to agency action subsequent to this Court's orders. Notwithstanding this Declaration, Plaintiffs have received reports that the State Department, Department of Housing and Urban Development ("HUD"), and Department of Health and Human Services ("HHS") have continued to implement Executive Order 14210 notwithstanding this Court's TRO and preliminary injunction, as follows:

- The State Department has given notice to Congress that it is continuing to implement the reorganization plan (announced April 22, 2025) that was the subject of Plaintiffs' TRO and preliminary injunction motions, and which was specifically referenced by this Court's preliminary injunction order. Specifically, last week the State Department announced that it intends to shortly issue widespread RIF notices to effectuate this reorganization, and counsel for Defendants has taken the new position that this reorganization is not, in fact, covered by this Court's injunction.
- With respect to HUD, probationary employees have been re-terminated in furtherance of the HUD reduction in workforce efforts, again, after this Court's injunctive orders.
- HHS employees have been placed on administrative leave or subjected to further offboarding actions after the TRO and preliminary injunction.

Plaintiffs' counsel promptly raised these issues with Defendants' counsel. Defendants acknowledged that HHS took actions subsequent to the Court's orders and represented that HHS

1 would take prompt corrective action, which Plaintiffs are monitoring and therefore do not raise for
 2 resolution by this Court at this time.¹ With respect to State and HUD, however, Defendants have
 3 acknowledged the actions that Plaintiffs contend conflict with the preliminary injunction, but are
 4 taking the position that they are not covered by this Court's orders.

5 Plaintiffs respectfully request that the Court hold a status conference as soon as possible
 6 this week, so the parties may address how to resolve disputes regarding State Department and HUD
 7 actions subsequent to the Court's orders. Defendants' counsel's position on this request for a status
 8 conference is that they are in compliance with the preliminary injunction so a status conference is
 9 unnecessary, but they will participate in any conference that is set, and that if a conference is set
 10 they request an opportunity for remote participation and that it take place *prior to Friday, June 6*
 11 based on planned absence by counsel.²

12 BACKGROUND

13 On May 9, 2025, this Court issued a TRO enjoining the "implement[ation] or enforce[ment]
 14 [of] sections 3(c) and 3(e) of Executive Order 14210 or the February 26, 2025 OMB/OPM
 15 Memorandum, or the ARRPs." ECF 85 at 40. Specifically, the Court enjoined, among other
 16 things, "any further implementation of the Executive Order, the OMB/OPM Memorandum, or
 17 ARRPs by Federal Agency Defendants, including but not limited to: execution of any existing RIF
 18 notices (including final separation of employees), issuance of any further RIF notices, placement of
 19 employees on administrative leave, and transfer of functions or programs between the agency
 20
 21

22 ¹ Defendants have represented that all affected employees will be restored to work status by the close
 23 of business today, and the parties are continuing to confirm that all off-boarding actions have been
 suspended or reversed. Leonard Decl. Ex. D.

24 ² Defendants' full response, which they requested be shared with this Court, is as follows:
 25 "Defendants are working diligently to comply with the injunction and have been working
 26 constructively with Plaintiffs' counsel to address their concerns, and that a status conference is thus
 27 unnecessary. But of course, if the Court determines that a status conference is appropriate,
 28 Defendants stand ready to participate in any such conference. Defendants respectfully request that
 any status conference be conducted via telephone or Zoom given that counsel is located in
 Washington, D.C. In addition, if at all possible, Defendants respectfully request that any status
 conference be scheduled prior to Friday June 6 because counsel for the government who presented
 argument at the preliminary injunction hearing will be out of the office beginning June 6, returning
 June 16." Leonard Decl. Ex. D.

1 defendants.” *Id.* The TRO applied to Defendants including the State Department, HUD, and HHS.
2 *Id.*

3 On May 22, 2025, this Court issued a preliminary injunction that included extending the
4 relief granted in the TRO. ECF 124. Like the TRO, the preliminary injunction “enjoined” 22
5 defendant agencies “and their officers or employees or any other individuals acting under their
6 authority ... from taking any actions to implement or enforce sections 3(c) and 3(e) of Executive
7 Order 14210 or the February 26, 2025 OMB/OPM memorandum.” *Id.* at 47-48. This Court
8 therefore enjoined, among other things, “any further implementation of ARRPs, including but not
9 limited to the following actions, to the extent they are taken to implement Executive Order 14210
10 and/or the OMB/OPM Memorandum: (a) execution of any existing RIF notices (including final
11 separation of employees), (b) issuance of any further RIF notices, (c) placement of employees on
12 administrative leave, and (d) transfer of functions or programs between the agency defendants.”
13 *Id.* at 48. The Court clarified that “this injunction shall not limit federal agency defendants from
14 presenting reorganization proposals for legislative approval or engaging in their own internal
15 planning activities without the involvement of OMB, OPM, or DOGE, provided that they do not
16 implement any of the prohibited actions above.” *Id.* And, “[t]o the extent that defendants need
17 clarification about whether certain activities are prohibited or allowed by the order,” the Court
18 instructed, “they may seek such clarification from the Court.” *Id.*

19 To date, Defendants have sought no clarification from this Court regarding the meaning or
20 application of the injunction.

21 The preliminary injunction order directed Defendants to submit a declaration by 3:00 PM
22 on Friday, May 30, 2025, “verifying that all defendants have been given notice of [the preliminary
23 injunction] order and have taken steps to comply.” ECF 85 at 48. On May 30, 2025, Defendants
24 filed a four-paragraph, one-page declaration from OMB employee Stephen M. Billy, which does
25 not state that it is based on personal knowledge. ECF 141-1. That declaration states that “counsel
26 for the Government has ... provided compliance instructions to all enjoined components.” *Id.* ¶4.
27 According to the declaration, those instructions included an explanation of “what the preliminary
28 injunction prohibits” and “emphasized that enjoined components must comply with the injunction

1 until there is relief from that injunction from this Court or a higher court.” *Id.* Defendants’
 2 declaration does not detail any steps taken by the agencies to comply with the Court’s preliminary
 3 injunction, but states that “[a]ll Defendants have been given notice of this Order and have taken
 4 steps to comply.” *Id.* ¶3. The declaration does not inform the Court that Defendants are taking
 5 actions with respect to reorganization or reduction in the federal workforce that they contend fall
 6 outside the scope of this Court’s injunction. *See generally id.*

7 DISCUSSION

8 Plaintiffs’ efforts to resolve disputes regarding the State Department’s and HUD’s
 9 compliance with the Court’s orders have not been successful. Plaintiffs briefly describe these
 10 reports of non-compliance, efforts to resolve these issues, and the basis for Plaintiffs’ position that
 11 the actions as described raise significant and credible compliance concerns, and request the Court’s
 12 assistance in addressing the appropriate next steps.

13 A. State:

14 1. Reports of Non-Compliance

15 Approximately a week after the OMB/OPM deadline for submission of “Phase 2” ARRP’s
 16 (see ECF 37-1, Ex. B), on April 22, 2025, the State Department announced a “comprehensive
 17 reorganization plan.” ECF 37-20, Ex. E (Secretary Rubio announcement, crediting “President
 18 Trump’s leadership”); *id.* (“Region-specific functions will be consolidated to increase
 19 functionality, redundant offices will be removed, and non-statutory programs that are misaligned
 20 with America’s core national interests will cease to exist.”); *see also id.* Exs. F-G (New
 21 Organizational Charts); Ex. H (“Department Reorganization FAQs”); Ex. I (“State Department
 22 Reorganization Fact Sheet”). In particular, the April 22, 2025 “Fact Sheet” explained, “the Under
 23 Secretaries will ... submit a path to reducing staff in domestic offices by 15 percent, consistent
 24 with the President’s Workforce Optimization Initiative.”³ Leonard Decl. Ex. B (including ECF 37-
 25 20 Ex. I again for this Court’s convenience). The “Workforce Optimization Initiative” is a direct
 26 reference to Executive Order 14210, which is titled “Implementing the President’s ‘Department of
 27

28 ³ It has come to Plaintiffs’ attention that this document was altered to remove the reference to
 “Workforce Optimization” after this Court’s TRO. *Compare* Leonard Decl. Ex. B *with* Ex. C.

Government Efficiency’ Workforce Optimization Initiative.” *See also, e.g.,* White House, *Fact Sheet: President Donald Trump Works to Remake America’s Federal Workforce* (Feb. 11, 2025) (“Today, President Donald J. Trump signed an Executive Order implementing the President’s Department of Government Efficiency (DOGE) workforce optimization initiative.”).⁴

In addition, on April 22, 2025, the State Department conducted a Department Press Briefing, in which its spokesperson stated the following, in response to questions regarding the announced reorganization:

QUESTION: Is DOGE involved at all on this plan, or was this just a State Department proposal?

MS BRUCE: This I think is a very good example of the importance – we know the American people love the result of DOGE. I think there were some questions, perhaps, about how it was applied. And what we do know is that the DOGE approach, the goal of that entity and of that committee, is something the President appreciated and still does, as do the American people very much.

But when – **I believe the President said a few weeks ago that ultimately this was going to be approach – an approach that the secretaries were going to begin to apply.** And also that does make sense, because whether it’s the secretaries or the under secretaries or the people running the offices, it is a daily – the daily work of individuals committed to the country, making a difference for the world, and the people on the ground working together know best about how this works, what could change, and how it should change.

So this is, I think, a very good example of the continuation of that mission and the value of that mission to cut government down to size, get people used to the idea that it can happen without it being a bad thing, and then watching the benefits that flow. **So secretaries now in charge of this – remember, this is a – from an executive order. This is a whole-of-government – every department looking at how they can make their department more efficient, less burdensome, less bureaucratic. This is the State Department’s version of that. ...**

Leonard Decl. Ex. A (emphasis added).

Plaintiffs identified this specific “reorganization” as action in furtherance of the EO in both their TRO and preliminary injunction motions. *See e.g.,* ECF 37-1 at 26-27; ECF 101-1 at 7 (citing ECF 101-11 Ex. A); *see also* ECF 37-20 Ex. I. At no point did Defendants contest whether this

⁴ Available at: <https://www.whitehouse.gov/fact-sheets/2025/02/fact-sheet-president-donald-j-trump-works-to-remake-americas-federal-workforce/>.

1 State Department reorganization was being conducted pursuant to the EO. *See generally* ECF 60;
2 ECF 117. Moreover, in arguing against the disclosure of ARRP, Defendants invoked the State
3 Department reorganization as an example of the public learning of plans once they are made. ECF
4 117 at 5 n.3. In the preliminary injunction order, this Court specifically referenced the State
5 Department reorganization. ECF 124 at 37.

6 On May 29, 2025, the State Department informed congressional oversight committees that
7 it intends to proceed with this reorganization including large-scale RIFs *imminently*. Leonard Decl.
8 ¶3.

9 2. Efforts to Resolve Non-Compliance Issues

10 On May 29, Plaintiffs' counsel alerted Defendants' counsel and inquired about the
11 imminent reorganization and RIFs, which appeared to violate the preliminary injunction. Leonard
12 Decl. ¶7, Ex. D. Defendants' counsel responded by confirming that State is proceeding with its
13 reorganization and asserted, for the first time, that this reorganization is *not* pursuant to the EO but
14 "was undertaken solely at the direction of Secretary Rubio" and "the result of an internal process."
15 *Id.* Ex. D. Defendants' counsel also suggested that no RIF notices would be sent until 15 days after
16 the State Department's notice to Congress. *Id.* In subsequent communications, Defendants'
17 counsel reiterated these points. *Id.*

18 Defendants have thus far declined Plaintiffs' requests that the State Department comply
19 with the preliminary injunction by ceasing further implementation of this reorganization, including
20 by halting forthcoming RIFs. Leonard Decl. Ex. D.

21 3. Non-Compliance Concerns

22 There is no reasonable argument that further implementation of the State Department
23 reorganization is outside the scope of this Court's injunction. Plaintiffs described this planned
24 reorganization in their TRO and preliminary injunction briefs; Defendants never argued in response
25 that this reorganization was "independent" of the EO; and the Court specifically referenced the
26 reorganization in its preliminary injunction decision. Moreover, this newly asserted position is
27 contrary to the State Department's contemporaneous statements, as previously explained.

28 If Defendants disagreed with the Plaintiffs' characterization of the State Department

1 reorganization as being pursuant to the EO, they should have raised that disagreement in opposition
 2 to the TRO or preliminary injunction. And if they disagreed with the Court’s injunction of the
 3 State Department’s reorganization plan on the basis that it was not pursuant to the EO, the
 4 appropriate step would have been to move for relief from or modification of the preliminary
 5 injunction—not to unilaterally decide that it did not apply. At the least, Defendants could have
 6 requested “clarification about whether [State’s reorganization was] prohibited or allowed by the
 7 order.” ECF 124 at 48. At a minimum, Defendants should have revealed to the Court this new
 8 position in the compliance declaration that they submitted on May 30, 2025.

9 However, Defendants took none of these steps. Having failed to ask this Court for relief,
 10 any further implementation of this reorganization plan by Defendants, including any imminent RIF
 11 notices, is already enjoined by this Court’s preliminary injunction. As previously noted, Defendant
 12 State Department is taking the position that it is free to issue widespread RIF notices to employees
 13 as soon as June 13 (15 days after the notification of Congress described above).

14 The steps taken to notify Congress do not alleviate Defendants from the obligation of
 15 complying with this Court’s preliminary injunction. This Court clearly instructed that agencies
 16 were free to submit plans “for legislative approval,” “provided that they do not implement any of
 17 the prohibited actions above.” ECF 124 at 48. The State Department is therefore already enjoined
 18 from issuing RIF notices in furtherance of the President’s Workforce Optimization objectives in
 19 the coming days, or taking any further action to implement this reorganization plan.

20 **B. HUD**

21 1. Reports of Non-Compliance

22 The OMB/OPM Memorandum lists “continuing to evaluate probationary employees” as
 23 among the “available tools” for agencies to implement their ARRs. ECF 100-2 at 2-3. Further,
 24 what appears to be a cover sheet for Phase 2 ARRs created by OPM/OPM for agency use
 25 identifies the termination of probationary employees as a “Strateg[y]” for reducing the number of
 26 employees at agencies and directs agencies to list the number of probationary employees they plan
 27 to terminate. *See* ECF 96-1 at 23 (non-defendant agency Phase 2 ARR Cover Sheet).
 28

1 During the week of May 26, Plaintiffs received reports, Leonard Decl. ¶5, which
2 Defendants' counsel confirmed, that "HUD has recently terminated approximately 79 probationary
3 employees" after entry of the TRO on May 9. *Id.* Ex. D.

4 2. Efforts to Resolve Non-Compliance Issues

5 Plaintiffs' counsel also notified Defendants' counsel of this non-compliance concern on
6 May 29. Leonard Decl. Ex. D. When asked about the terminations, Defendants' counsel took the
7 position that "[t]hese termination notices were ... entirely independent of Executive Order 14,210,
8 the February 26 OPM/OMB memorandum, and any HUD submission(s) in response to that
9 Memorandum, including ARRP's" and were instead "based on assessments separate and apart from
10 HUD's ARRP." *Id.* In subsequent communications, Defendants' counsel invoked "a separate
11 Executive Order" titled "Strengthening the Probationary Period." *Id.*

12 Defendants declined Plaintiffs' requests for corrective action. Leonard Decl. Ex. D.
13 Plaintiffs asked for further factual support for Defendants' position that these actions were
14 independent of the HUD ARRP (including whether the HUD ARRP includes discussion of
15 probationary employee terminations), which Defendants' counsel refused to provide on the ground
16 that "HUD's ARRP is confidential" and that, therefore, counsel cannot "characterize it." *Id.*

17 3. Non-Compliance Concerns

18 Defendants have confirmed that HUD did in fact terminate 79 probationary employees after
19 issuance of this Court's TRO. In light of the specific instructions to agencies to use probationary
20 terminations as a "tool" in their ARRP's to achieve workforce reductions in furtherance of the goal
21 of the EO, and inclusion of probationary terminations on what appears to be the ARRP cover sheet,
22 the evidence supports the conclusion that these terminations were in furtherance of the President's
23 EO and OMB/OPM Memorandum, unless Defendants can show otherwise. If the termination of
24 probationary employees is a "tool" in furtherance of the ARRP's workforce reduction goals, then
25 that "tool" was enjoined by this Court's injunctive orders. The Executive Order invoked by
26
27
28

1 defense counsel, notably, does not order the termination of any probationary employees.⁵ Plaintiffs
2 again request this Court's assistance in determining the appropriate next steps.

3 **C. Defendants' Compliance Declaration**

4 Neither of these actions (nor the HHS actions that Plaintiffs identified) were described in
5 Defendants' May 30 compliance declaration, which asserted that all Defendants, across the board,
6 were taking steps to comply with the preliminary injunction, without providing any specific
7 information and without personal knowledge. ECF 141-1. Plaintiffs would also request the
8 opportunity to address at the upcoming status conference the need for more fulsome reporting of
9 steps taken to comply with this Court's orders.

10 **CONCLUSION**

11 Because the parties have been unable to resolve these disputes, Plaintiff respectfully request
12 an urgent status conference to discuss next steps with the Court.

13
14 Respectfully submitted,

15
16 DATED: June 3, 2025

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26 ⁵ See Exec. Order No. 14288 (April 28, 2025); see also OMB/OPM April 28, 2025 Memorandum,
27 available at [https://www.opm.gov/policy-data-oversight/latest-memos/initial-guidance-on-](https://www.opm.gov/policy-data-oversight/latest-memos/initial-guidance-on-president-trump-s-executive-order-strengthening-probationary-periods-in-the-federal-service-2.pdf)
28 president-trump-s-executive-order-strengthening-probationary-periods-in-the-federal-service-2.pdf
("The EO establishes rules and policies for managing probationary and trial periods across both the
competitive and excepted services.").

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